

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

_____	)	
JOHN HANCOCK LIFE INSURANCE	)	
COMPANY, JOHN HANCOCK	)	
VARIABLE LIFE INSURANCE	)	
COMPANY, and INVESTORS	)	
PARTNER LIFE INSURANCE	)	
COMPANY,	)	CIVIL ACTION NO. 03-12501-DPW
Plaintiffs,	)	
	)	
v.	)	
	)	
ABBOTT LABORATORIES,	)	
	)	
Defendant.	)	
_____	)	

**JOINT STATUS REPORT AND PROPOSAL**

Pursuant to this Court's Order of October 14, 2004, plaintiffs John Hancock Life Insurance Company, John Hancock Variable Life Insurance Company, and Investors Partner Life Insurance Company (collectively, "John Hancock" or the "Plaintiffs"), and defendant Abbott Laboratories ("Abbott"), through counsel, have conferred concerning the Court's recent suggestion that the parties consent to the resolution of the present action on a "case stated" basis. The parties respectfully report that they were not entirely able to reach agreement regarding a proposed course of action in response to the Court's suggestion. The following sets out the parties' respective positions:

John Hancock's Position: John Hancock is agreeable to resolving the case in a single proceeding as a "case stated." John Hancock respectfully submits, however, that the parties would benefit in the first instance from the Court's guidance as to what potential factual disputes, if any, the Court believes may exist based upon a preliminary review of the

summary judgment papers already on file. If, after its preliminary review, the Court concludes that additional evidence with respect to specific questions or issues would be of assistance to the Court in making a final determination of the pending claims, John Hancock proposes that the parties be permitted a reasonable period of time (*e.g.*, two weeks) to make additional written factual submissions addressing such questions or issues, or, if appropriate, to present live testimony at an abbreviated evidentiary proceeding. The Court then could proceed, as suggested, to resolve this action on a “case stated” basis. If, on the other hand, the Court concludes that additional evidence is not necessary, John Hancock is prepared to rest and rely upon the current record.

Abbott’s Position: Abbott is agreeable that the case be resolved as a “case stated” based upon the parties’ presently-filed papers, with the Court resolving any factual disputes based upon the current record. Abbott respectfully does not believe it necessary for the Court to conduct a “preliminary review” and to provide the parties guidance as to what factual issues exist prior to ruling. Given the breadth and specificity of the record currently before the Court, Abbott believes the current submissions are adequate to allow the Court to decide the issues.

#### **Next Status Conference**

The parties currently intend to appear before the Court, as instructed, on Friday, November 5, 2004, at 3:30 p.m. for a further conference to address their respective positions and obtain guidance from the Court with respect to the course of future proceedings in this action.

Respectfully submitted,

JOHN HANCOCK LIFE INSURANCE COMPANY,  
JOHN HANCOCK VARIABLE LIFE INSURANCE  
COMPANY, AND INVESTORS PARTNER LIFE  
INSURANCE COMPANY

By their attorneys,

/s/ Karen Collari Troake

Brian A. Davis (BBO No. 546462)  
Michael Arthur Walsh (BBO No. 514875)  
Karen Collari Troake (BBO No. 566922)  
Stacy Blasberg (BBO No. 657420)  
CHOATE, HALL & STEWART  
Exchange Place  
53 State Street  
Boston, Massachusetts 02109-2891  
Tele: (617) 248-5000

ABBOTT LABORATORIES

By their attorneys,

/s/ Michael S. D'Orsi

Peter E. Gelhaar (BBO No. 188310)  
Michael S. D'Orsi (BBO No. 566960)  
DONNELLY, CONROY & GELHAAR, LLP  
One Beacon Street, 33<sup>rd</sup> Floor  
Boston, Massachusetts 02108  
Tele: (617) 720-2880

Lawrence R. Desideri, Esq. (admitted *pro hac vice*)  
Stephen V. D'Amore, Esq. (admitted *pro hac vice*)  
Kathleen B. Barry, Esq. (admitted *pro hac vice*)  
WINSTON & STRAWN LLP  
35 West Wacker Drive  
Chicago, Illinois 60601  
Tele: (312) 558-5600

Date: October 29, 2004